IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6749 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE R.R.TRIPATHI

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

THAKORBHAI BHIKHABHAI PATEL

Versus

GSRTC

Appearance:

MR MUKESH H RATHOD for Petitioner

MR HARDIK C RAWAL for Respondent No. 1

NOTICE SERVED for Respondent No. 2

CORAM : MR.JUSTICE R.R.TRIPATHI

Date of decision: 10/04/2000

ORAL JUDGEMENT :

Rule. The petition is against the acceptance of resignation which was tendered by the petitioner on 25.1.1999 at about 4.00 PM. It is the case of the petitioner that on the next day, i.e. 26.1.1999 it was a holiday. On 27.1.1999 when he realised of having committed a mistake of tendering resignation, in the

morning hours at 8.30 AM he sought withdrawal of the same. On 27.1.1999 he was allowed to work by the concerned authority.

2. Mr. Hardik Raval, learned advocate for respondents points out para 3. and 3.2 of the reply, wherein it is his case that the resignation was forwarded to the authorities on the same day, i.e. 25.1.1999. He further points out Rule 50, provided at Annexure 'L' to the petition, which reads as under:

> "50. Except as provided in Regulation 51, no employee shall quit the service of the State Transport, unless he gives a calendar month's notice in writing, or reimburses to the State Transport the basic pay for the calendar month in lieu of the notice period, and is permitted by the competent authority to quit the service."

In light of this Mr.Prabhakar Upadhyaya for the petitioner submits that the respondent Corporation could not have allowed the petitioner to quit service of the State Transport as he had not given a calendar month's notice in writing or he has not reimbursed to the ST Corporation the basic pay for the calendar month in lieu of the notice period.

3. Looking to the facts and circumstances of the case and looking to the aforesaid dates and timings of the incident, the tendering of resignation and withdrawal thereof and also the fact that the petitioner worked on 27.1.1999, the petition is required to be allowed. Acceptance of resignation dated 25.1.1999 is hereby quashed and set aside. The petitioner stands continued in service. However, only with a view to enable the petitioner to make a realisation that he should not have acted in a disturbed temperament in this fashion, the back wages for the intervening period are not awarded. The petitioner stands reinstated in service with continuity of service and the authorities shall reinstate the petitioner in service before 20.4.2000. However, this order may not be treated as a precedence. Rule is made absolute with no order as to costs.

(Ravi R. Tripathi, J.)
karim*